

§ 301.140

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may be requested by NTIA as part of the record in its determination on a petition for relocation under § 301.140. The decision may be a factor, among other things, in the NTIA determination on a petition for relocation. Each party shall pay its own costs for arbitration and share equally the cost of the arbitrator.

§ 301.140 Petition for relocation.

(a) *In general.* A licensee seeking to relocate a Federal Government station must submit a petition for relocation to NTIA. A copy of the petition must also be simultaneously provided to the FCC. NTIA's determination shall be set forth in writing within six months after the petition for relocation has been filed, and be provided to the auction winner and the Federal entity. NTIA shall limit or terminate the Federal entity's operating license within six months after receiving the petition if the following requirements are met:

(1) The person seeking relocation of the Federal Government station has guaranteed to pay all modification and relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fees;

(2) All activities necessary for implementing the relocation or modification have been completed, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use);

(3) Any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to accomplish its purposes; and

(4)(i) NTIA has determined that the proposed use of the spectrum frequency band to which the Federal entity will relocate its operations is

(A) Consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests; and

(B) Suitable for the technical characteristics of the system band and consistent with other uses of the band.

(ii) In exercising its authority, NTIA shall consult with the Secretary of Defense, the Secretary of State, or other appropriate officers of the Federal Government.

(5) If these requirements are not met, NTIA shall notify the petitioner that the request is declined and the reasons for denial.

(6) If NTIA does not issue a determination under this section within 6 months of the filing of a Petition for Relocation, the Petition for Relocation is deemed to be denied.

(7) In making its determination under this section, NTIA shall consult with the affected Federal entity and the Office of Management and Budget and other executive branch agencies.

(b) *Petition after agreement between the parties.* The licensee may file a petition for relocation pursuant to § 301.140 at anytime after the parties have reached agreement on relocation in negotiations or mediation as provided in § 301.120 and submit the agreement as evidence of having met the requirements of the Petition for Relocation.

(c) *Petition after failure to reach an agreement.* If the parties fail to reach an agreement as provided in § 301.120 and non-binding arbitration has occurred pursuant to § 301.130, the licensee may file a petition for relocation with NTIA after a decision has been rendered by the arbitrator. Any recommended decision by the arbitrator may be requested by NTIA as part of the record in a petition for relocation under § 301.140. The recommended decision may be a factor, among others, in the NTIA determination on the Petition for Relocation.

§ 301.150 Request for withdrawal.

As an alternative to a Petition for Relocation, if the parties reach an agreement in negotiations or mediation or agree with the decision of the arbitrator, the Federal entity may seek voluntary withdrawal of the assignments that are the subject of the relocation.